

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRAD GREENSPAN,
Plaintiff,

v.

IAC/INTERACTIVECORP, et al.,
Defendants.

Case No. [14-cv-04187-RMW](#)

**ORDER TO SHOW CAUSE WHY CASE
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE**

Plaintiff Brad Greenspan filed his complaint in this case on September 16, 2014, and a first amended complaint on December 30, 2014. *See* Dkt. Nos. 1, 6. On February 5, 2015, Defendant IAC/InterActiveCorp filed a motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6). Dkt. No. 18. On February 9, 2015, Defendant Google filed a motion to dismiss for failure to state a claim and lack of standing. Dkt. No. 19. On February 19, 2015, Greenspan filed a second amended complaint, which was not filed with leave of court. *See* Dkt. No. 21. Shortly thereafter, on March 4, 2015, Greenspan's counsel, Hogue & Belong, moved for leave to withdraw, citing a breakdown between Greenspan and his attorneys and Greenspan's express direction that his counsel withdraw from the case. Dkt. No. 23, at 1–2.

The court granted Hogue & Belong's motion to withdraw on March 9, 2015 subject to the condition that Hogue & Belong continue to accept service of papers for forwarding purposes until Greenspan appeared by other counsel or pro se. Dkt. No. 24, at 1. The court also ordered Hogue & Belong to notify Greenspan of the court's order granting Hogue & Belong's motion to withdraw, and to inform him that he was required to file a notice of his consent to the withdrawal with the

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1 court within three days of the order. *Id.* Finally, noting that Greenspan had filed a second amended
2 compliant without obtaining leave of court under Fed. R. Civ. P. 15(a)(2), the court gave
3 Greenspan 30 days from the date of the court's order to file a motion for leave to file a second
4 amended complaint. *Id.* at 2.

5 On April 1, 2015, Hogue & Belong filed a Declaration of Diligence in Notifying Plaintiff
6 of Court Order. See Dkt. No. 25. In the Declaration, Tyler J. Belong attests that on the morning of
7 March 10, 2015, the day after the court's order was filed, Belong emailed a copy of the order to
8 each email address that Greenspan had used to communicate with Hogue & Belong. *Id.* at 2.
9 Belong also states that he contacted Greenspan by phone on or about March 10, 2015 and
10 informed him of the order and the court's requirement that Greenspan file his consent to the
11 withdrawal. *Id.* Finally, Belong attests that he mailed a copy of the court's order to Greenspan's
12 last known physical address.

13 The court's order was filed on March 9, 2015. *See* Dkt. No. 24. Accordingly, Greenspan's
14 consent to Hogue & Belong's withdrawal was due on March 12, 2015, and his motion for leave to
15 file a second amended complaint was due by April 8, 2015.

16 In light of Plaintiff's failure to timely file a notice of consent to Hogue & Belong's
17 withdrawal and to file a motion for leave to file a second amended complaint, the Court ORDERS
18 Greenspan to show cause why this case should not be dismissed for failure to prosecute under
19 Federal Rule of Civil Procedure 41(b). This order does not authorize Greenspan to file an untimely
20 motion for leave to file a second amended complaint. **Greenspan has until May 1, 2015 to file a**
21 **response to this Order to Show Cause.** A hearing on this Order to Show Cause is set for Friday,
22 May 8, 2015 at 9:00 a.m. Plaintiff's failure to respond to this Order by May 1, 2015, or to appear
23 at the May 8, 2015 hearing will result in dismissal with prejudice for failure to prosecute.

24 **IT IS SO ORDERED.**

25 Dated: April 20, 2015

26 
27 Ronald M. Whyte
28 United States District Judge

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